



Administrative Policies and Procedures: 16.27

Subject: Resource Parents' Right To Appeal Ten-Day Removal Notice

Supersedes: DCS 16.27, 12/01/03

Local Policy: No

Local Procedures: No

Training Required: No

Applicable Practice Model Standard(s): No

Approved by:

Effective date:

06/01/01

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01/01/05

Application

To All Department Of Children's Services (DCS) Employees, Private Provider Agencies, Approved Resource Parents, And Children In State Custody.

Authority: TCA 37-5-106, 37-4-201, 36-1-201 et al.

Policy

Any Department of Children's Services approved resource parents or private provider resource parent, which includes those parents providing placement and services to children subject to compliance with the Interstate Compact on the Placement of Children (ICPC) has the right, under certain conditions, to appeal a DCS decision to remove the child from their resource home for placement in a different resource home or facility or in an adoptive resource home per the conditions outlined in this chapter. The child must have been in the home of the resource family for a period of twelve (12) consecutive months in order for an appeal to be filed. All DCS resource parents are entitled to a ten-day (10) written notice of removal of children from their home.

Procedures

A. Conditions under which appeal rights do not apply

Appeal rights do not apply for the following conditions:

1. The child is being returned to his/her parents or legal guardian.
2. The child is removed from the resource home pursuant to a court order requiring such removal.

3. The child is removed from the resource home at the request of the resource parents.
4. The child has been in the resource home for less than twelve (12) consecutive months.

B. Notice of removal

1. At least ten (10) days prior to the planned removal of a child from a resource home for reasons other than those specified above, the resource parents shall be notified in writing of the department's or agency's intention to remove the child, the date of the intended removal, and the reasons for the intended removal, form *CS-0450 Notice for Removal of a Child From Resource Family Care*.
2. For DCS resource homes, form *CS-0450, Notice For Removal Of A Child From Resource Family Care*, must also advise the resource parents of their right to appeal the decision, and that if they appeal within ten (10) days, the child shall not be removed from their home pending the outcome of the appeal.
3. The private provider shall notify resource parents with a similar form of their making. The DCS case manager will be notified immediately by the private provider and will be involved in the decision of the Child and Family Team Meeting.
4. Advance notice of the intent to remove a child from a resource home is not required when the Department determines that there is an imminent threat of harm to the child's health or safety if he is not removed from the resource home immediately.

C. Time limit for filing an appeal

1. Appeals from decisions to remove a child from a resource family will be accepted only if they are filed within ten (10) days after the mailing date of the written notice of the action unless good cause can be shown as to why the appeal could not be filed with the time limit.
2. The time limits shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or legal holiday in which case the last day shall be the first day following a Saturday, Sunday, or legal holiday.
3. In the cases of private provider removals of children from agency resource homes, families shall appeal removals to the Department of Children's Services Case Manager assigned to the child in their home. Resource families and

the private provider are encouraged to resolve conflicts internally or by participation in a child and family team meeting. However the ten-day period to file appeals is applicable as stated above to resource parents working with a private provider.

4. Private provider resource parents shall file appeals through appropriate DCS channels as outlined below in parts **F**, **G**, and **H**.

D. Exception to the time limit for filing an appeal

In extraordinary circumstances, a written request must be submitted to the Commissioner of the Department of Children's Services by the resource parent. The Commissioner may grant a waiver of the time limit, and allow the foster parents to file an appeal after the ten (10) day time limit but prior to the actual removal of the child from the foster home. The decision will be provided in writing to the resource parent. This waiver is also available for resource parents working with a private provider.

E. Waiver of right to appeal

When the resource parents concur with the plan for removal of a child from their home or when they choose not to pursue an appeal, they may waive their right to a hearing and to the ten (10) day advance notice period by executing a written waiver, *CS-0450, Notice For Removal Of A Child From Resource Family Care*. The waiver gives the Department the authority to remove the child from the home on the date specified in the original notice or on an earlier date, if an earlier date is specified in the waiver.

F. Pre-hearing conference

1. The resource parents shall be given an opportunity to discuss their disagreement regarding the decision to remove the child from their home with the team leader, the team coordinator and the contract agency supervisor when applicable, at the time they request to file an appeal.
2. Every effort shall be made to resolve the complaints through informal conference procedures at the local and regional level; however, such a conference will in no way deny or infringe on the resource parents' right to appeal.

G. Filing the appeal

The original copy of form, *CS-0403 Appeal for Fair Hearing* must be mailed to DCS Central Office, Administrative Procedures Division, with copies to the resource home record, the Regional Administrator, the Director Of Adoption, Foster and Kinship Care, and the relevant private provider.

H. Time limit on hearing the appeal

The maximum time limit for processing an appeal regarding the removal of a child from a foster family home is forty-five (45) days, beginning on the date the request for appeal is received by the Department and ending on the date the notice of the

initial order is mailed to the resource parents.

**I. Removal of child
from resource
home**

If the decision is upheld to remove the child from the resource home, the final order shall state the date on which the child shall be removed, and the date cannot be less than seven (7) days from the mailing date of the letter.

Forms

CS-0450	Notice For Removal Of A Child From Resource Family Care
CS-0403	Appeal For Fair Hearing
CS-0583	Waiver of Right To Appeal

Collateral Documents

Foster Parent Bill of Rights

Standards

None

Glossary

<i>Term</i>	<i>Definition</i>
<i>Resource Parent:</i>	Any person(s), trained and approved by the Department of Children's Services, that provides a family home environment for a child(ren) in the custody of the state. The family is instrumental in building relationships in an effort to provide support and to achieve the safety, permanency, and well being of the child(ren) in their home by providing an adoptive, foster care or kinship placement.
<i>Private Provider:</i>	Any agency that provides contractual services for the Department of Children's Services to a child(ren) in state custody. This may include but is not limited to resource parents, residential treatment, and counseling services.

***Interstate Compact
on the Placement
of Children (ICPC):***

(TCA 37-4-201-207) The Interstate Compact on the Placement of Children is a uniform law in 50 States, the District of Columbia and the Virgin Islands that regulates the movement of children across state lines (interjurisdictional) for the purposes of foster care or preliminary to an adoption. The ICPC purposes are to ensure that each child is placed in a suitable environment, with persons or institutions having appropriate qualifications and facilities to provide the necessary and desirable degree and type of care in order to achieve permanency for the child, and that appropriate jurisdictional arrangements for the placement and permanency are intact.